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# PROVISIONAL AGENDA, ANNOTATIONS THERETO AND SCHEDULING OF MEETINGS OF THE TWENTY-FIFTH SESSION

Note by the Secretariat

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## II. ANNOTATIONS TO THE PROVISIONAL AGENDA

Item 1. Opening of the session

The twenty-fifth session will be held at the United Nations Headquarters, New York, from 4 to 22 May 1992, with the period of 18 to 22 May being devoted to the Congress on International Trade Law. The session will be opened on Monday, 4 May 1992, at 10:30 a.m. The Commission is composed of the following member States: Argentina, Austria, Bulgaria, Cameroon, Canada, Chile, China, Costa Rica, Czechoslovakia, Denmark, Ecuador, Egypt, France, Germany, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Mexico, Morocco, Nigeria, Poland, Russian Federation, Saudi Arabia, Singapore, Spain, Sudan, Thailand, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, and Uruguay.

Item 2. Election of officers

Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairman, three Vice-Chairmen and a Rapporteur.

Item 3. Adoption of the agenda

It is suggested that all items be considered in plenary.

Item 4. International payments: draft Model Law on International Credit Transfers

At its nineteenth session (1986), the Commission decided to begin the preparation of model rules on electronic funds transfers and to entrust that task to the Working Group on International Negotiable Instruments, which it renamed the Working Group on International Payments (A/41/17, para. 230). The draft text prepared by the Working Group was subsequently renamed the draft Model Law on International Credit Tranfers. The Working Group completed its work by adopting the draft text of a Model Law on International Credit Transfers at the close of its twenty-second session, after a drafting group had established corresponding language versions in the six languages of the Commission.

The Commission, at its twenty-fourth session (1991), had before it the text of the draft Model Law contained in the annex to the report of the Working Group on the work of its twenty-second session (A/CN.9/344), a report of the Secretary-General containing a compilation of comments of Governments and international organizations on that draft text (A/CN.9/347 and Add.1) and a report of the Secretary-General containing a commentary prepared by the Secretariat on the draft Model Law (A/CN.9/346). The Commission considered in depth draft articles 1 to 15 and referred those articles, as revised and adopted by the Commission, to the Drafting Group; for lack of time, the Commission suspended its discussion of article 17 and did not discuss articles 16 and 18. The text of draft articles 1 to 15 as revised by the Drafting Group, as well as the text of articles 16 to 18 as they were submitted by the Working Group to the Commission, is contained in annex I of the report of the Commission on the work of its twenty-fourth session (A/46/17).

With a view to finalizing the draft Model Law at the current session, the Commission may wish to complete its deliberations by discussing draft articles 16 to 18 and by reviewing draft articles 1 to 15 for any necessary adjustments. Possible points to be considered by the Commission in its final review of the draft UNCITRAL Model Law on International Credit Transfers will be presented in a note by the Secretariat (A/CN.9/367).

Item 5. Draft Legal Guide on International Countertrade Transactions

At its twenty-second session (1989), the Commission considered the report entitled "Draft outline of the possible content and structure of a legal guide on drawing up international countertrade contracts" (A/CN.9/322). It was decided that such a legal guide should be prepared by the Commission, and the Secretariat was requested to prepare draft chapters of the legal guide for the twenty-third session of the Commission (A/44/17, paras. 245-249).

At its twenty-third session (1990), the Commission considered several draft chapters of the legal guide, contained in document A/CN.9/332 and its addenda 1 to 7. The discussion in the Commission is reflected in A/45/17, annex I. The Commission decided that the Secretariat should complete the remaining draft chapters and submit them to the Working Group on International Payments. The Commission also decided that the final draft of the legal guide should be submitted to its twenty-fifth session in 1992 (A/45/17, paras. 17 and 18).

The Working Group on International Payments, at its twenty-third session in September 1991, considered the draft chapters that had not been presented to the twenty-third session of the Commission; those draft chapters were contained in document A/CN.9/WG.IV/WP.51 and its addenda 1 to 7. The discussion in the Working Group is reflected in document A/CN.9/357. The Working Group requested the Secretariat to revise the draft chapters in the light of its deliberations, and to present the revised draft chapters to the Commission at its twenty-fifth session.

The Commission will have before it the revised draft chapters of the legal guide and related material in document A/CN.9/362 and its addenda 1 to 17. The document is set out as follows: the covering report (A/CN.9/362); I. Introduction to legal guide (addendum 1 to A/CN.9/362); II. Scope and terminology of legal guide (addendum 2); III. Contracting approach (addendum 3); IV. Countertrade commitment (addendum 4; this draft chapter incorporates a revised version of earlier draft chapter VII (entitled "Fulfilment of countertrade commitment") as it appeared in A/CN.9/362/Add.8, and revised section C of draft chapter III as it appeared in A/CN.9/362/Add.2); V. General remarks on drafting (addendum 4; this draft chapter is a revision of earlier draft chapter IV as it appeared in A/CN.9/332/Add.3); VI. Type, quality and quantity of goods (addendum 6; this draft chapter is a revision of earlier draft chapter V as it appeared in A/CN.9/332/Add.4); VII. Pricing of goods (addendum 7; this draft chapter is a revision of earlier draft chapter VI as it appeared in A/CN.9/332/Add.5); VIII. Participation of third parties (addendum 8); IX. Payment (addendum 9); X. Restrictions on resale of goods (addendum 10); XI. Liquidated damages and penalty clauses (addendum 11); XII. Security for performance (addendum 12); XIII. Problems in completing countertrade transaction (addendum 13); XIV. Choice of law (addendum 14); XV. Settlement of disputes (addendum 15). Addendum 16 contains draft illustrative provisions that may be used in drawing up a countertrade agreement. Addendum 17 contains summaries of draft chapters to be placed at the beginning of the chapters.

Item 6. Electronic data interchange

At its twenty-fourth session, the Commission was agreed that the legal issues of electronic data interchange (EDI) would become increasingly important and that the Commission should undertake work in that field. The Commission decided that a session of the Working Group on International Payments would be devoted to identifying the legal issues involved and to considering possible statutory provisions, and that the Working Group would report to the Commission at its next session on the desirability and feasibility of undertaking further work such as the preparation of a standard communication agreement. The Commission also took note of the suggestion by the Secretariat to prepare a uniform law on the replacement of negotiable documents of title, and more particularly transport documents, by EDI messages (A/46/17, paras. 311 to 317).

The Working Group held its twenty-fourth session at Vienna, from 27 January to 7 February 1992. The Commission will have before it the report of the Working Group (A/CN.9/360).

Item 7. New international economic order: draft Model Law on Procurement

The Commission, at its nineteenth session (1986), decided to undertake work in the area of procurement and entrusted the subject to the Working Group on the New International Economic Order (A/41/17, para. 243). The Working Group commenced its work at its tenth session. At its fourteenth session, the Working Group expressed its expectation that the draft Model Law on Procurement would be prepared for submission to the twenty-sixth session of the Commission. The Commission will have before it the reports of the Working Group on the work of its thirteenth session held in New York from 15 to 26 July 1991 (A/CN.9/356) and of its fourteenth session held at Vienna from 2 to 13 December 1991 (A/CN.9/359).

Item 8. International contract practices: draft Uniform Law on International Guaranty Letters

The Commission, at its twenty-second session (1989), decided that work on a uniform law on guarantees and stand-by letters of credit should be undertaken (A/44/17, para. 244). The Working Group on International Contract Practices commenced its work on this topic at its thirteenth session. The Working Group held its sixteenth session at Vienna from 4 to 15 November 1991 and will hold its seventeenth session from 6 to 16 April 1992 in New York. The Commission will have before it the reports of the Working Group (A/CN.9/358 and 361, respectively).

Item 9. Incoterms 1990

The Commission, at its twenty-fourth session (1991), considered a request by the International Chamber of Commerce that the Commission consider endorsing INCOTERMS 1990 (A/CN.9/348). It was recalled that the Commission, at its second session (1969), had endorsed INCOTERMS 1953. Reference was made to the importance of INCOTERMS as a widely used practical tool and to the need for wider awareness of INCOTERMS. Furthermore, appreciation was expressed for the efforts made by ICC to revise INCOTERMS in order to stay abreast of changes in transportation techniques and trade documentation. However, while

several delegations indicated their desire to endorse the text of INCOTERMS at that session, some delegations indicated that, owing to the fact that late publication of document A/CN.9/348 had prevented them from carrying out the consultations required prior to endorsement, they were not prepared to endorse the text of INCOTERMS at that session. The Commission regretfully felt obliged to postpone consideration of endorsement until the twenty-fifth session (A/46/17, paras. 351 and 352).

Item 10. Case law on UNCITRAL texts

Based on a decision by the Commission at its twenty-first session (A/43/17, paras. 98-109), the UNCITRAL secretariat has established a system for collecting, and disseminating information on, court decisions and arbitral awards relating to normative texts emanating from the work of the Commission. The system relies on national correspondents designated by those States adhering to a Convention or having enacted legislation based on a Model Law. The features of that system are explained in detail in the User Guide that will be published together with the first batch of abstracts of court decisions relating to the United Nations Sales Convention and the UNCITRAL Model Arbitration Law.

Item 11. Co-ordination of work

The Commission, at its twenty-fourth session (A/46/17, paras. 318 and 319), had before it a note on the Secretariat's efforts to collect from multilateral and bilateral development organizations information on activities that aimed at modernizing commercial law in developing countries (A/CN.9/352). At the twenty-fifth session, the Commission will have before it a further note on those efforts using a different approach (A/CN.9/364).

Item 12. Status of conventions

The Commission will have before it a note by the Secretariat (A/CN.9/368) concerning the present status of the Convention on the Limitation Period in the International Sale of Goods (New York, 1974); United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg); United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980); Protocol amending the Convention on the Limitation Period in the International Sale of Goods (Vienna, 1980); United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988); United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 1991); Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958); and the UNCITRAL Model Law on International Commercial Arbitration.

Item 13. Training and assistance

The Commission will have before it a note by the Secretariat on this subject (A/CN.9/363).

Item 14. General Assembly resolutions on the work of the Commission

The Commission may wish to take note of General Assembly resolution 46/56 on the Report of the United Nations Commission on International Trade Law on the work of its twenty-fourth session. Copies of the resolution and the report of the Sixth Committee (A/46/688) will be made available at the session.

Item 15. Other business

The Commission will have before it a bibliography of recent writings related to the work of the Commission (A/CN.9/369).

Item 16. Date and place of future meetings

(a) Twenty-sixth session

The twenty-sixth session will be held at Vienna. Arrangements have been made for the session to be held from 7 to 25 June 1993.

(b) Sessions of working groups

(i) Working Group on International Contract Practices

The eighteenth session of the Working Group will be held at Vienna from 30 November to 11 December 1992. Information regarding dates available for the sessions in 1993 will be supplied by the Secretariat.

(ii) Working Group on the New International Economic Order

The fifteenth session of the Working Group will be held in New York from 22 June to 2 July 1992. The Working Group expects to complete its preparation of a draft Model Law on Procurement at that session. If that turns out to be impossible, arrangements will be made for another session in October 1992.

(iii) Working Group on International Payments

The twenty-fifth session of the Working Group will not be held from 31 August to 11 September 1992 as originally planned; instead, arrangements will be made for the session to be held in January 1993 in New York.

Item 17. Adoption of the report of the Commission

The General Assembly, in paragraph 10 of resolution 2205 (XXI), decided that the Commission should submit an annual report to the General Assembly, and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Under a decision of the Sixth Committee (A/7408, paragraph 3), the report of the Commission is introduced to the General Assembly by the Chairman of the Commission or by another officer of the Bureau designated by the Chairman.

Item 18. Congress on International Trade Law

The Commission, at its twenty-fourth session (1991), decided that a Congress on International Trade Law should be organized in the context of the twenty-fifth session of the Commission (A/46/17, paras. 343-349). The Congress is a contribution of the Commission to the activities of the United Nations Decade of International Law. Under the theme "Uniform Commercial Law in the 21st Century", it will be held during the last week of the session, i.e., from 18 to 22 May 1992. The Commission expressed the hope that all States and concerned international organizations would take the opportunity to send delegates to the Congress to consider the accomplishments achieved in the progressive unification and harmonization of interntional trade law during the past 25 years and the needs than could be foreseen for the next 25 years. Also invited are other specialists in international trade law, in particular ultimate users of uniform legal texts, such as practising lawyers, corporate counsel, ministry officials, judges, arbitrators and teachers of law. An outline of the programme of the Congress has been published in a note by the Secretariat (A/CN.9/1992/INF.1).

## III. SCHEDULING OF MEETINGS

There will be 8 working days available for consideration of the agenda items (other than agenda items 17 and 18) at the session. No meeting will be scheduled for Thursday, 14 May, to enable the Secretariat to prepare the draft report. Friday, 15 May, will be reserved for the adoption of the report. During the third week of the session, 18 to 22 May, the Congress will be held.

Meeting hours will be from 10.00 am to 1.00 pm and 3.00 to 6.00 pm, except on Monday, 4 May, when the meeting will commence at 10.30.

The Secretariat would recommend that the agenda items be taken up in numerical order and that the Commission anticipate devoting the first week of the session (after agenda items 1 to 3) to agenda item 4 (draft Model Law on International Credit Tranfers), with the possibility of spending additional time on Wednesday of the second week if necessary to complete the discussion and finalize the Model Law. The Commission may wish to devote Monday and Tuesday of the second week to agenda item 5 (Countertrade) and thereafter to resume, if necessary, its consideration of agenda item 4, to be followed by the deliberations on agenda items 6 through 16.

## IV. MEETING OF NATIONAL CORRESPONDENTS

Since the twenty-second session of the Commission it has become customary to hold, in conjunction with Commission sessions, meetings of the national correspondents for the case collection system referred to under agenda item 10. It is planned that the national correspondents will meet on Thursday, 14 May, when no meeting of the Commission has been scheduled, and possibly on Friday, 15 May, after the adoption of the report by the Commission. Further information concerning the scheduling of the meeting of national correspondents will be communicated during the session.